CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		 Геат:	CCRB Case #:	Force	☐ Discourt.	U.S.
Cassandra Fenkel		Squad #14	201707210	☐ Abuse	□ O.L.	☐ Injury
		- 1 :				
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Friday, 08/25/2017 12:20 AM		87(2)(b) Precinct stationhouse	41st	41	2/25/2019	2/25/2019
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Tin	ne Received at CCI	<u> </u> RB
Fri, 08/25/2017 3:20 AM		[AB	Phone		31/2017 4:31 PM	
	<u> </u>			1114, 00/	31/2017 4.31 1 W	
Complainant/Victim	Туре	Home Addre	ess			
Witness(es)		Home Addre	ess			
Subject Officer(s)	Shield	TaxID	Command			
1. POM Michael Rothschild	31315		O41 PCT			
2. SGT Thomas Manning	01789	954300 930644	041 PCT 041 PCT			
3. POM Brian Tam	09424	958109	041 PCT			
4. SGT Avlon Beazer	01298	929696	041 PCT			
Witness Officer(s)	Shield No		Cmd Name			
1. SGT Azad Mahmood	02538	945944	041 PCT			
2. POM Sergey Pogosyan	24198	963215	041 PCT			
Officer(s)	Allegation	1		In	vestigator Recon	nmendation
A.SGT Thomas Manning	_	rgeant Thomas Manni	ng entered ^{§ 87(2)(b)}		8	
3		in the Bronx.				
B.SGT Thomas Manning	Abuse: At	§ 87(2)(b) Chomas Manning dama	in the Bro	nx,		
	property.	nomas Manning dama	aged			
C.SGT Thomas Manning	Force: At		in the Bror			
	Sergeant 7	Thomas Manning poin	ted his gun at \$87(2)(b)	_		
D.SGT Thomas Manning	Force: At	87(2)(b)	in the Bror	nx,		
	Sergeant T	Thomas Manning poin	ted his gun at § 87(2)(b)			
E.POM Michael Rothschild	Force: At	§ 87(2)(b)	in the Bror	ny		
L.i Owi whenaer Romsemia		icer Michael Rothschi				
EDOM D: T		\$ 97/2\/h\		_		
F.POM Brian Tam	Force: At Police Off	icer Brian Tam pointe	in the Brond his gun at § 87(2)(b)	nx,		
G.SGT Thomas Manning	Force: At	the 41st Precinct station	onhouse, Sergeant Th	nomas		
		ised physical force aga				
H.SGT Avlon Beazer		the 41st Precinct stati eatened § 87(2)(b)	onhouse, Sergeant A with the use of for			
	Deazer till	Catched	with the use of for			

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b) § 87(2)(g)		

Case Summary

On August 25, 2017, Lieutenant Raymond Kwong of the 41st Precinct called the IAB

Command Center to report that Dwanye \$87(2)(b) was injured while in police custody at the 41st Precinct stationhouse and transported to \$87(2)(b)

This complaint was received at the CCRB on August 31, 2017. On August 25, 2017, at approximately 12:20 a.m., Sgt. Thomas Manning, PO Michael Rothschild, and PO Brian Tam, all of the 41st Precinct, responded to \$87(2)(b) the Bronx at the request of employees of the Administration for Children's Services ("ACS"). Sgt. Manning, PO Rothschild, and PO Tam forced entry into the apartment, damaging the front door of the apartment in the process (Allegation A and B: Abuse of Authority, \$87(2)(9) and allegedly pointed their guns at \$87(2)(b) and his \$87(2) -year-old daughter, \$87(2)(b) (Allegations C - F: Force, § 87(2)(9) § 87(2)(b) was arrested for § 87(2)(b) (Board Review 01) and transported to the 41st Precinct stationhouse. There, Sgt. Manning allegedly pushed 887(2)(6) (Allegation G: Force, §87(2)(9)) and Sgt. Avlon Beazer of the 41st Precinct allegedly with the use of force (Allegation H: Abuse of Authority, threatened § 87(2)(b) § 87(2)(g) [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] There is no video evidence in this case.

Findings and Recommendations

<u>Allegation A – Abuse of Authority: Sergeant Thomas Ma</u>	anning entered § 87(2)(b)
in the Bronx.	
Allegation B – Abuse of Authority: At §837(2)(b)	in the Bronx,
Sergeant Thomas Manning damaged \$ 87(2)(b) pro	operty.
It is undisputed that Sgt. Manning, PO Rothschild, a	and PO Tam forcibly entered
§ 87(2)(b) apartment.	
(Board Review 03) testified that on Au	
p.m., § 87(2)(b) an ACS worker, arrived at his ho	
officers. § 87(2)(b) wife, § 87(2)(b) answered the	
outstanding bench warrant. §87(2)(b) briefly came to the	·
speak to anyone and went back inside of the apartment. \$872	
in police custody, leaving \$87(2)(b) home with his two da	
and year-old 887(2)(b) Approximately five	_
tapping his arm and pointing toward the fro	_
exited his bedroom and observed that his apartment front do	
Manning and PO Rothschild were standing in the interior ha	•
(Board Review 04) testified that she	
and sar(2)(b) and sar(2)(b) and was accompanied by	
contentious relationship with \$87(2)(b) Upon arrival, \$87(2)	
arrested on an outstanding bench warrant. §87(2)(b) refus	ed to allow § 87(2)(b) inside to
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see \$57(210) and \$57(210) left, but returned to the apartment approximately five hours later, after having obtained an entry order from a judge. Sgt. Manning, PO Rothschild, and PO Tam met \$57(210) outside of the apartment. The officers knocked on \$50(210) door, but there was no answer, so the officers forced entry into the apartment. Sgt. Manning (Board Review 05), the supervisor on scene, testified that he was responding to a job to assist ACS workers. Upon arrival, the ACS workers told Sgt. Manning that during the previous tour, officers arrested \$57(210) from inside of the apartment, leaving her two children alone with \$57(210) who the ACS workers described as "extremely violent." The ACS workers presented \$5gt. Manning with an order of protection, which stated that \$57(210) could not make contact with the two children who were currently in his care. \$5gt. Manning knocked on \$57(210) apartment door approximately 50 times over the course of two minutes, but there was no answer. \$5gt. Manning could hear running water inside of the apartment, which heightened his concern for the safety of the children inside. Believing the matter was too timesensitive to call ESU, \$5gt. Manning ordered PO Tam and PO Rothschild to force entry into the apartment. PO Tam and PO Rothschild took turns kicking the front door until it was breached, at which point, \$5gt. Manning, PO Tam, and PO Rothschild entered the apartment. PO Rothschild (Board Review 06) and PO Tam (Board Review 07) both testified that \$5gt. Manning ordered them to force entry into the apartment because \$57(210) failed to answer the door for the ACS workers after they knocked for approximately five minutes. The Order on Application for Access to the Children and Home (Board Review 08), issued by Family Court Judge \$57(210) not \$57
removal proceedings if there is reasonable cause to believe the health and life of children are in
imminent danger.
§ 87(2)(g)

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Allegation C – Abuse of Authority: At § 87(2)(b)	in the Bronx,
Sergeant Thomas Manning pointed his gun at \$87(2)(b)	
Allegation D – Abuse of Authority: At 887(2)(b)	in the Bronx,
Sergeant Thomas Manning pointed his gun at \$87(2)(b)	
Allegation E – Abuse of Authority: At \$87(2)(b)	in the Bronx, Police
Officer Michael Rothschild pointed his gun at \$87(2)(b)	
Allegation F – Abuse of Authority: At § 87(2)(b)	in the Bronx, Police
Officer Brian Tam pointed his gun at §87(2)(b)	
testified that after exiting his bedroom with \$87(2)(b)	
ordered him to freeze and put his hands up. \$87(2)(b) instead kept h	
Manning yelled that \$87(2)(b) was resisting, drew his gun, and poin	
\$87(2)(b) was unable to specify exactly where Sgt.	
pointed on his or \$87(2)(b) person. Sgt. Manning holstered his	gun seconds later and
§ 87(2)(b) was then handcuffed.	
testified that she remained in the hallway outside	
overheard the officers order \$87(2)(b) to show them his hands, but to	nat sne could not see inside
of the apartment.	ha officers entering the
Sgt. Manning testified that \$87(2)(b) was not visible upon the apartment. Sgt. Manning yelled, "Show me your hands" approximately	y five times before
887(2)(b) emerged from the bedroom at the end of the hallway and beca	
§87(2)(b) yelled, "What do you want?" Sgt. Manning ordered §87(2)(b)	
officers. §87(2)(b) complied. Sgt. Manning could not recall if §87(2)(b)	
Sgt. Manning denied that he ever drew or pointed his gun.	nad a child with him
PO Rothschild and PO Tam both acknowledged pointing their	guns at § 87(2)(b) at this
point of the incident. PO Rothschild testified that he did so because he	
result of \$87(2)(b) noncompliance with answering the door and exi	
testified that he feared for his safety because the apartment was dimly	
number of individuals inside, and because §87(2)(b) could have had	
Rothschild nor PO Tam saw Sgt. Manning point his gun at §87(2)(b)	
Officers have broad discretion to display their guns as a protect	
response. People v. Livigni, 88 A.D.2d 386 (1982) (Board Review 13).	
§ 87(2)(g)	

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Allegation G – Force: At the 41st Precinct stationhouse, Sergeant Thomas Manning used physical force against § 87(2)(b) testified that at the 41st Precinct stationhouse, Sgt. Manning told § 87(2)(b) that he was going to "cosign with ACS." \$87(2)(b) did not specify what this was in reference told Sgt. Manning he must have been a nerd in school. § 87(2)(b) acknowledged that some of his saliva "may have" landed on Sgt. Manning while he spoke due to his close proximity to Sgt. Manning. In response, Sgt. Manning allegedly balled his fists and raised his forearms to his chest. Believing Sgt. Manning was going to strike him, §87(2)(b) body sideways. Sgt. Manning allegedly jumped towards [37(2)[5] and pushed him with two hands on the side of his torso to the floor, causing \$87(2)(b) to allegedly fracture a rib. § 87(2)(b) was transported to § 87(2)(b) while still in police custody. He sought no additional medical treatment for this injury upon his release from custody. medical records from § 87(2)(b) (Board Review 14) reflect that he complained of pain to his left ribs after being "assaulted by cops." X-rays revealed no rib fracture and no other injuries were noted. §87(2)(6) was prescribed Motrin for pain. He refused to sign his discharge papers. \$87(2)(6) told medical personnel that he planned to go to another hospital where they would find a rib fracture. (Board Review 15), was in the holding cell directly across from § 87(2)(b) during this aspect of the incident. She testified that "spray" came out of \$87(2)(b) mouth while he spoke to Sgt. Manning, and that Sgt. Manning placed two hands on § 87(2)(b) chest and pushed him to the floor. Sgt. Manning testified that upon \$87(2)(b) arrival at the 41st Precinct stationhouse, was agitated, cursed at the officers, and called them pigs. Sgt. Manning lodged \$87(2)(b) inside of a holding cell, but did not remove his handcuffs due to his demeanor. Approximately one hour later, believing \$37(2)(b) had calmed down, Sgt. Manning returned to the holding cell to remove §87(2)(b) handcuffs. Sgt. Manning removed §87(2)(b) suddenly turned around to face Sgt. Manning. Sgt. Manning ordered 887(2)(6) to turn back around. §87(2)(b) called Sgt. Manning a "bitch" and a "punk" and spat in Sgt. Manning's face. Believing § 87(2)(b) would be easier to control on the floor, Sgt. Manning grabbed one of § 87(2)(b) wrists and pulled § 87(2)(b) down to the floor. § 87(2)(b) flat on his stomach and Sgt. Manning inadvertently fell on top of him. At this time, Sgt. Mahmood, the 41st Precinct Desk Sergeant, approached, and he and Sgt. Manning pulled \$87(2)(b) hands behind his back and handcuffed him. \$87(2)(b) then spat on Sgt. Mahmood. Sgt. Mahmood (Board Review 16) testified that when § 87(2)(6) arrived at the 41st Precinct stationhouse, \$37(2)(5) yelled "Fuck you! Fuck your mother! You guys are pigs!" as he was processed at the front desk. Approximately 30 minutes later, Sgt. Mahmood heard §87(2)(b) yelling "Fuck you!" from a holding cell. From the front desk, Sgt. Mahmood looked up through a window facing the holding cell area and observed "two bodies" positioned against each other, Sgt. Mahmood was unable to describe this observation in more detail and was unable to distinguish who he was looking at. Sgt. Mahmood immediately ran to the holding cells and found on the floor. Sgt. Mahmood could not recall how \$87(2)(b) was positioned on the floor. When Sgt. Mahmood grabbed \$87(2)(6) arms to lift him off the floor, \$87(2)(6) spit in Sgt. Mahmood's eye.

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PO Rothschild testified that he was preparing \$\frac{837(2)(b)}{2} arrest paperwork in a room adjacent to the holding cells when he heard Sgt. Manning and \$\frac{837(2)(b)}{2} yelling. He could not recall what they said. PO Rothschild approached and observed \$\frac{837(2)(b)}{2} had cuffed on the floor. Sgt. Manning and Sgt. Mahmood said \$\frac{837(2)(b)}{2} had spit on them. PO Rothschild did not observe this firsthand, nor did he see how \$\frac{837(2)(b)}{2} ended up on the floor. Neither PO Tam nor Sgt. Beazer were present during this aspect of the incident. The AIDED Reports prepared for Sgt. Manning (Board Review 17) and Sgt. Mahmood (Board Review 18) indicate that \$\frac{837(2)(b)}{2} spit on them. The TRI Report (Board Review 19) prepared by Sgt. Manning notes that a forcible takedown was used to overcome resistance. According to \$\frac{NYPD Patrol Guide}{2}\$, Procedure 221-02 (Board Review 20), an officer may use reasonable force to gain control of a person who is resisting.
Allegation H – Abuse of Authority: At the 41st Precinct stationhouse, Sergeant Avlon Beazer threatened 887(2)(6) with the use of force.
Precinct stationhouse, where he was lodged in an empty holding cell. said that at approximately 6:00 p.m., he kicked the holding cell door because he was upset about being unable to make a phone call. An officer said had not interacted with previously, identified by the investigation as Sgt. Beazer, approached from the stationhouse front desk and allegedly
pointed a Taser at \$87(2)(b) back, while stating, "Play with me and you're gonna get it." \$87(2)(b) was not present during this aspect of the incident.
Sgt. Beazer (Board Review 21), who was assigned to the stationhouse front desk as the desk sergeant, did not recall interacting with \$87(2)(6) or being in the holding cell area during
his tour that day. However, § 87(2)(b) described the subject officer as a black man dressed in
uniform who he believed to be a sergeant based on his presence at the stationhouse front desk.
noted that he had previously seen the same officer at the stationhouse front desk
when retrieving vouchered property in the past. Sgt. Beazer did not recall pointing a Taser at
s87(2)(b) and he did not recall stating, "Play with me and you're gonna get it."
PO Sergey Pogosyan (Board Review 22), identified by the Prisoner Holding Pen Roster,
testified that he was processing an arrest at the time of the incident, but he did not recall if he did
so near the holding cells. PO Pogosyan had not recollection of \$87(2)(b) or his interactions
with any officers. PO Pogosyan denied seeing Sgt. Beazer point a Taser at \$87(2)(b) and
denied hearing Sgt. Beazer threaten to Taser \$87(2)(b)

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Neither Sgt. Manning, Sgt. Mahmood, PO Rothschild, nor PO Tam acknowledged being present during this aspect of the incident. § 87(4-b) § 87(2)(g) **Civilian and Officer CCRB Histories** This is the first CCRB complaint to which \$87(2)(b) has been a party (Board Review 26)

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- Sgt. Manning has been a member-of-service for 16 years and has been a subject in four CCRB complaints and five allegations, none of which were substantiated. §87(2)(9)
- PO Rothschild has been a member-of-service for five years and has been a subject in two CCRB complaints and five allegations, none of which were substantiated. § 87(2)(9)
- PO Tam has been a member-of-service for three years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. §87(2)(9)
- Sgt. Beazer has been a member-of-service for three years and has been a subject in one CCRB complaint containing one allegation, which was not substantiated. § 87(2)(9)

Mediation, Civil and Criminal Histories

• This complaint was not suitable for mediation.

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

• As of July 5, 2018, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards to this complaint (Board Review 27).

Squad No.:	#14		
Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date

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